

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>HARRY J. SMITH,</b>	)	
	)	
Petitioner,	)	
	)	
v.	)	Civ.Act.No. 07-408-JJF
	)	
<b>THOMAS CARROLL</b> , Warden	)	
and <b>JOSEPH R. BIDEN, III</b> , Attorney	)	
General for the State of Delaware	)	
	)	
Respondents.	)	

**MOTION FOR EXTENSION OF TIME TO FILE**

**CERTIFIED STATE COURT RECORDS**

1. The petitioner, Harry J. Smith, has applied for federal habeas relief, alleging error by the state courts. D.I. 2. The undersigned filed an answer to the petition on October 3, 2007.

2. By the terms of the Court's order, the respondents are directed to attach to the answer certified copies of the state court records material to the questions raised in the petitioner's appeal.

3. Due to the large volume of record retrieval recently required by prosecutors in the appeals division, the undersigned has been unable to obtain the certified state court records in order to file them contemporaneously with the answer. The undersigned anticipates obtaining and copying the records on or before November 3, 2007.

4. This is respondents' FIRST request for an extension of time to file records.

5. Respondents submit that an extension of time to November 3, 2007 in which to file certified copies of the material portions of the state court records in this case is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 4612

DATE: October 3, 2007

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley  
Deputy Attorney General

Counsel for Respondents

Date: October 3, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on November 3, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on November 3, 2007, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Harry J. Smith  
SBI No. 297441  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

/s/ James T. Wakley  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 4612  
james.wakley@state.de.us

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General for the State of Delaware	)	
	)	
Respondents.	)	

**ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2007,

WHEREAS, respondents having requested an extension of time in which to file certified state court records, and,

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that certified state court records related to this matter shall be filed on or before November 3, 2007

\_\_\_\_\_  
United States District Judge